

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

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Howard Levey, John and Susan L. Walter, h/w  
and  
Allstate Insurance Company  
Plaintiffs

V.

Boat America Corporation,  
and  
Delaware Bay Launch Service, Inc.  
Defendants

and C.A.1:06-cv-510JJF

Boat America Corporation  
Third Party Plaintiff

v.

Delmarva Towing and Salvage  
a/k/a Southern Delaware Towing and Salvage  
Third Party Defendant

**AMENDED RULE 16 SCHEDULING ORDER**

The parties having satisfied their obligations under Fed. R. Civ.P.26(f)

IT IS ORDERED that:

1. Pre Discovery Disclosures. The parties have exchanged the information required by Fed. R. Civ. P. 26 (a)(1) and D. Del. LR 16.2.

2. Joinder of other Parties. Third party joinder has been made.

3. Settlement Conference. Pursuant to 28 U.S.C. §636, this matter is referred to Magistrate Judge Thyng for the purposes of exploring settlement. The parties may contact Magistrate Judge Thyng to schedule a settlement conference before the Pretrial Conference or a date ordered by the Court.

4. Discovery.

a, b, c. Interrogatories have been exchanged and answered; fact witnesses have been identified; document production has been accomplished; and requests for admissions have been answered.

d. Depositions of Defendants Delaware Bay Launch Service, Inc. and Boat America Corporation, as well as depositions of Third Party Defendant Delmarva Towing and Salvage are currently being scheduled and will be completed by February 29, 2008.

Depositions of the three individual Plaintiffs have been completed.

e. Reports from retained experts are due from the Plaintiffs by March 31, 2008; and from the defendants and third party defendant by April 30, 2008.

f. Expert depositions to be completed by May 31, 2008.

g. Any party desiring to depose an expert witness shall notice and

complete said deposition no later than 30 days from receipt of said expert's report, unless otherwise agreed in writing by the parties.

#### 5. Discovery Disputes

a. A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the FRCP and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

b. All papers shall set forth in plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reason for the party's position.

c. Upon receipt of the Answer, the movant shall notify Chambers by email at [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov) that the parties have completed briefing.

d. Upon receipt of movant's email, the Court will determine whether a conference is necessary and advise the parties accordingly.

e. There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

6. Amendment to the Pleadings. All motions to amend the pleadings shall be filed on or before March 31, 2008.

7. Case Dispositive Motions. Any case dispositive motions shall be served and filed with an opening brief on or before June 30, 2008. Briefing shall be pursuant to D.Del LR 7.1.2 No case dispositive motion may be filed more than 10 days from the above date without leave of the Court.

8. Application by Motion.

a. Any application to the Court shall be by written motion filed with the Clerk of the court in compliance with the FRCP and the Local Rules of Civil Practice for the United States District Court for the District of Delaware. Any non-dispositive motion shall contain the statement required by D.DelLR 7.1.1. Parties may file stipulated and unopposed Orders with the clerk of the Court for the Court's reviewing and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

b. No facsimile transmissions will be accepted.

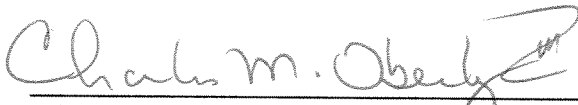
c. No telephone calls shall be made to Chambers.

d. Any party with a true emergency matter requiring the assistance of the Court shall email Chambers at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov) The email shall provide a short statement describing the emergency.

9. Pretrial Conference and Trial. After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pre Trial Conference. If scheduling of the trial is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

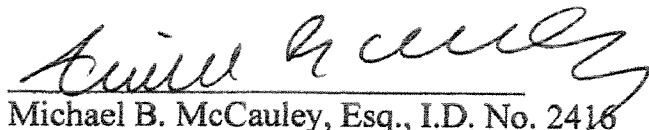
Consent to the terms of this Order



Charles M. Oberly, III, Esq., I.D. No. 743  
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1220 Market Street, Ste. 710  
P. O. Box 2054  
Wilmington, DE 19899-2054  
Attorney for Plaintiffs

Dated: 1-7-08

Consent to the terms of this Order



Michael B. McCauley, Esq., I.D. No. 2416

Palmer Biezup & Henderson

1223 Foulk Road

Wilmington, DE 19803

Attorney for Delaware Bay Launch Service, Inc.

Dated: 1/7/08

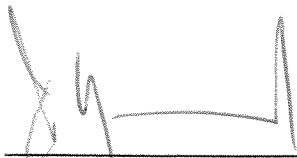
Consent to the terms of this Order

A handwritten signature in black ink, appearing to read 'W. J. Cattie, III', written over a horizontal line.

William J. Cattie, III, Esq., I.D. No. 953  
Rawle & Henderson  
300 Delaware Avenue, Suite 1015  
P. O. Box 588  
Wilmington, DE 19899-0588  
Attorney for Boat America Corporation

Dated: 1/7/08

Consent to the terms of this Order



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Eric C. Howard, Esq., I.D. No. 2066  
Wilson, Halbrook & Bayard  
107 W. Market Street  
P. O. Box 690  
Georgetown, DE 19947  
Attorney for Delmarva Towing and Salvage  
a/k/a Southern Delaware Towing and Salvage

Dated: 01-08-2008

SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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United States District Judge